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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS
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2004 OCT 20 P 4: 38
AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. T-04200A-03-0550
BCE NEXXIA CORPORATION FOR A)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY TO PROVIDE FACILITIES-BASED)
INTEREXCHANGE SERVICES AND PETITION)
FOR COMPETITIVE CLASSIFICATION OF)
PROPOSED SERVICES WITH THE STATE OF)
ARIZONA.)

Arizona Corporation Commission
DOCKETED

OCT 20 2004

DOCKETED BY *CAK*

MOTION FOR MODIFICATION OF ORDER CONDITION

BCE Nexxia Corporation ("BCE"), by its undersigned counsel, hereby moves the Arizona Corporation Commission ("Commission") to modify a condition contained in the above-captioned Opinion and Order ("Order") granting BCE authority to operate in Arizona, dated July 12, 2004.¹ Specifically, BCE requests the Commission remove the condition that BCE procure an Interconnection Agreement unless it provides services solely through the use of its own facilities.²

BCE believes that the condition was improperly included in the Order due to a misunderstanding of the term "interconnection agreement". BCE testified that it intends to enter into interconnection agreements for access facilities to be used in terminating and originating traffic to large customers for data service needs.³ In fact, BCE intends to enter into service agreements, not interconnection agreements, with other carriers in Arizona in order to provide

¹ See *In Re* Application of BCE Nexxia Corporation for a Certificate of Convenience and Necessity to Provide Facilities-Based Interexchange Telecommunications Services in Arizona and for Competitive Classification of its Services, *Opinion and Order*, Dkt. No. T-04200A-03-0550, Decision No. 67113 (July 12, 2004).

² See Order at ¶ 16, subsection (a).

³ Order at ¶ 14.

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1 customers access to the BCE network. Due to the BCE's use of the term "interconnection
2 agreement", the Commission included in its Order a requirement that BCE enter into an
3 Interconnection Agreement and file such Agreement with the Commission. As an IXC, BCE
4 neither needs nor desires to enter into any such agreements in order to provide services to
5 customers in Arizona.

6 Further, it is BCE's understanding that the condition that BCE enter into an
7 Interconnection Agreement is not normally a condition contained in authorizations for facilities-
8 based IXC carriers. As such, there is no detriment to the public interest if the Commission grants
9 this motion. In fact, BCE only requests to be treated similarly as other facilities-based IXCs
10 operating in Arizona.

11 Lastly, BCE has conferred with Commission Staff regarding this motion, and has been
12 advised that Staff has no objection to this motion.

13 WHEREFORE, BCE respectfully requests that the Commission grant this motion and
14 remove the condition requiring BCE to enter into an Interconnection Agreement before being
15 allowed to offer facilities-based IXC services within the State of Arizona.

16 RESPECTFULLY SUBMITTED this 20th day of October, 2004

17 BCE Nexxia Corporation

18
19 By 
20 _____

21 Michael W. Patten
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1 Original and 13 copies filed
2 this 20 day of October, 2004
3 with:

4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007

8 Copy of the foregoing hand-delivered
9 this 20 day of October, 2004 to:

10 Amanda Pope, Esq.
11 Administrative Law Judge
12 Hearing Division
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16 Lisa Vandenberg, Esq.
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